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15 BSH HOME APPLIANCES CORPORATION

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

SHARON COBB, et al., individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

BSH HOME APPLIANCES
CORPORATION, a Delaware
corporation,

Defendant.

Case No. SACV 10-711 DOC
(ANx)

**DEFENDANT'S NOTICE OF
MOTION AND MOTION TO
EXCLUDE CERTAIN EXPERT
TESTIMONY AND OPINIONS
SUBMITTED BY PLAINTIFFS
IN SUPPORT OF THEIR
OPPOSITION TO
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

Date: November 17, 2014
Time: 8:30 a.m.
Place: Courtroom 9D
Judge: David O. Carter

TO PLAINTIFFS AND THEIR COUNSEL OF RECORD:

2 **PLEASE TAKE NOTICE** that on November 17, 2014, at 8:30 a.m., or as
3 soon thereafter as the matter may be heard, in Courtroom 9D of the United States
4 District Court for the Central District of California, located at 411 West Fourth
5 Street, Room 1053, Santa Ana, CA 92701, Defendant BSH Home Appliances
6 Corporation (“BSH”) will and hereby does move the Court to exclude certain
7 testimony and opinions of Plaintiffs’ experts Eugene Erickson, Marc Rysman, John
8 Goodman, Chin Yang, and John Chiu for failing to meet the standards of relevance
9 and reliability required by Federal Rule of Evidence 702 under the principles set
10 forth in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and
11 *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999).

12 In particular, BSH moves to exclude the following testimony and opinions
13 that Plaintiffs submitted in support of their opposition to BSH's Motion for Partial
14 Summary Judgment:

15 1) Eugene Erickson's opinion and testimony concerning the results of the
16 "conjoint survey" he administered.

17 2) Marc Rysman's opinion and testimony concerning the price elevation and
18 willingness-to-pay damages theories.

19 3) John Goodman's opinion and testimony concerning consumer behavior
20 and complaint rates related to BSH consumers and BSH 27-inch washing machines.

21 4) Chin Yang's opinion and testimony that: (1) any person suffered any
22 negative health effect as a result of mold or bacteria inside a BSH washer; and
23 (2) that mold or bacteria inside a BSH washer could cause a negative health effect.

24 5) John Chiu's opinion and testimony that: (1) any person suffered any
25 negative health effect as a result of mold or bacteria inside a BSH washer; and
26 (2) that mold or bacteria inside a BSH washer could cause a negative health effect.

27 For judicial economy, BSH does not file a duplicative motion to exclude the
28 testimony of these witnesses, but rather incorporates the relevant portions of BSH's

1 Daubert Motion to Exclude Certain Testimony at Trial, filed on October 6, 2014.
2 (Dkt. No. 335). BSH specifically incorporates the following sections:

3 1) Section III.A. regarding Eugene Erickson;
4 2) Section III.B. regarding Marc Rysman;
5 3) Section III.C. regarding John Goodman;
6 4) Section III.F. regarding Chin Yang; and
7 5) Section III.F. regarding John Chiu.

8 As a result, this Motion will be based upon this Notice of Motion and
9 Motion, the Memorandum of Points and Authorities to Exclude Certain Expert
10 Testimony at Trial and the and the Declaration of Sarah Conway in support of same
11 (and all exhibits attached to that declaration) filed on October 6, 2014, the pleadings
12 and papers filed in this action, and such further evidence, authority, and arguments
13 as may be presented in advance of or during the hearing on this Motion.

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15 Dated: October 8, 2014

JONES DAY

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By: /S/ Rick L. McKnight
Rick L. McKnight

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Attorneys for Defendant
BSH HOME APPLIANCES
CORPORATION

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